

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,) CASE NO. 5:01CR188
Plaintiff,)
v.) JUDGE JAMES S. GWIN
RASHAD COLLIER GREENE,) Magistrate Judge George J. Limbert
Defendant.)
REPORT & RECOMMENDATION
OF MAGISTRATE JUDGE

On March 6, 2013, this matter was referred to the undersigned in order to conduct appropriate proceedings in accordance with Criminal Rule 32.1. ECF Dkt. #26. On the same date, the undersigned conducted a supervised release revocation hearing, with the Government represented by Assistant United States Attorney David M. Toepfer on behalf of Assistant United States Attorney Arturo G. Hernandez, and Defendant Rashad Collier Greene represented by Assistant Federal Public Defender Debra K. Migdal.

On January 29, 2013, United States Probation Officer (“USPO”) Kit Schneckenburger filed a Violation Report alleging that Defendant had committed the following violation:

New Criminal Charges

Violent Conduct

On 01/25/2013, Mr. Greene was charged with Domestic Violence (M1) as the result of the assault that date of his former girlfriend in a courtroom at Summit County Domestic Relations Court. The case remains pending. Bond is presently \$25,000.00 10 percent.

1/29/2013 Violation Report at 1. On February 7, 2013, USPO Schneckenburger issued a Violation Report alleging the following violations:

1. **Law Violation** - On January 25, 2013, Rashad Greene was arrested by the Summit County Sheriff's Office and charged with Domestic Violence (M-1), in the Akron Municipal Court (Dkt: 201300872). At the initial appearance on January 28, bond was set at \$25,000.00/10%; he remains in custody. A jury trial has been scheduled for February 12, 2013.

2. **Failure to Notify Probation Officer of Arrest** - Mr. Greene did fail to notify the probation office of his arrest that occurred on January 25, 2013.
3. **Failure to Pay Restitution** - Mr. Greene has failed to submit a restitution payment since August 9, 2012, in violation of the Court's order for monthly payment towards the restitution obligation.

2/7/2013 Violation Report. On March 5, 2013, USPO Schneckenburger filed a Supplemental Information Report indicating the following:

On January 29, 2013, the Court signed a Warrant of Arrest, for Mr. Greene after he was arrested and charged in the Akron Municipal Court (Dkt: 201300872), with a new criminal law violation.

On January 25, 2013, Mr. Greene was arrested and charged with misdemeanor Domestic Violence, as a result of an assault on the date that occurred in a courtroom at the Summit County Domestic Relations Court. On February 21, 2013, the Offender entered a guilty plea to the original charge and was sentenced to thirty days custody, two years probation with the first six months to be placed at the Oriana House, Residential Institutional Program (R.I.P.).

On February 26, 2013, the offender was taken into custody by U.S. Marshal's Service, when he was released from the Summit County Jail, to a federal detainer.

Supplemental Information Report.

At the March 6, 2013 hearing before the undersigned, Defendant, represented by counsel, waived his right to a hearing and admitted the new law violation outlined in the Violation Reports. The United States Attorney's Office moved to dismiss the second alleged violation of Defendant failing to notify the probation officer of his arrest. As to the third alleged violation, Defendant acknowledged that he had not continued his court-ordered monthly restitution payments, but he indicated that it was not a willful or intentional nonpayment as he has not been in a position to make the monthly payments.

CONCLUSION AND RECOMMENDATION

Based upon the Violation Reports, the Supplemental Information Report, and Defendant's admission, the undersigned finds that Defendant has committed the alleged new law violation as outlined in Violation Number 1 of the February 7, 2013 Violation Report and Defendant has failed to pay restitution as outlined in Violation Number 3 of the February 7,

2013 Violation Report. Consequently, the undersigned recommends that the Court find that Defendant has violated the terms of his supervised release.

Dated: March 6, 2013

/s/ *George J. Limbert*

George J. Limbert
United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this notice. Fed. R. Crim. P. 59. Failure to file objections within the specified time constitutes a WAIVER of the right to appeal the Magistrate Judge's recommendation. *Id.*